

Ser. No. 10/699,637
Group Art Unit 3745

Remarks

Claims 1-25 are pending in this application. The applicant notes with appreciation that claim 22 has been allowed. Claims 1-21 were rejected under various prior art references. Claims 23-25 were rejected under 35 U.S.C. §112 ¶2.

On May 10, 2005, the undersigned attorney conducted a telephone interview with the Examining Attorney. The Applicant and its counsel thank the Examining Attorney for the courtesies and assistance extended during the interview. During the interview, the addition of the limitation "a single output shaft driven by the motor block and extending out of the housing..." or similar language to each of the independent claims was discussed, and the Examining Attorney agreed that such an amendment would overcome the art of record. The Examining Attorney also noted U.S. Patent No. 5,127,215, which had not been previously cited, and indicated that it may form the basis for a further rejection of these claims.

Of the rejected claims, claims 1, 5, 9 and 17 are independent. These claims have now been amended to require that "no more than one output shaft extends from the housing." It is understood that these claims, as amended, are therefore allowable over the art of record, and their dependent claims should also be allowable.

With regard to U.S. Patent No. 5,127,215, the applicant has amended the claims to add limitations that are clearly not found in this reference. These amendments are discussed below.

For example, Claim 1 has been amended to require a fixed swash plate mounted in the housing and engaging the motor pistons, where the motor output shaft extends through the swash plate. There is no such structure shown or suggested in the '215 reference, and this claim and its dependent claims 2-4 are allowable over this reference. Claims 2 and 4 were amended to accommodate the addition of the fixed swash plate language in claim 1.

Ser. No. 10/699,637
Group Art Unit 3745

Claim 5 has been amended to reference the mounting flange and indicate that the output shaft extends through the mounting flange. There is no such structure shown or suggested in the '215 reference, and this claim and dependent claims 6-8 are therefore allowable. Claim 8 was amended to correct a minor error (the addition of the word "the").

Claim 9 is also allowable, as it now claims an upper and lower housing member, where the motor output shaft extends out of the upper housing member. There is no such structure shown or suggested in the '215 reference. The '215 reference does not disclose how its housing is split, as there is insufficient detail in the drawings of that reference to make such a determination. In any event, even if the '215 reference is read to show a housing having upper and lower members, it does not show or suggest a structure where the output shaft extends out of the upper housing member. Therefore, claim 9 and dependent claims 10-16 are allowable. A minor amendment was made to claim 14 to ensure consistency with claim 9, and claim 15 was amended to add the word "the."

Claim 17, as amended, now calls for "a housing comprising an upper housing member joined to a lower housing member at a junction surface; and a mounting flange for attachment to an axle driving apparatus being integrally formed with one of the housing members..." There is no such structure shown or suggested in the '215 reference. Again, the '215 reference does not disclose how its housing is split, but even if it is read to show a housing having upper and lower members, this reference does not show or suggest a structure where a mounting flange is integrally formed with one of the housing members. Claim 17 and its dependent claims 18-21 are therefore allowable.

In summary, each of the independent claims 1, 5, 9 and 17 and their dependent claims are allowable for at least the reasons set forth above. Claim 22 is also still allowable over the '215

Ser. No. 10/699,637
Group Art Unit 3745

reference because that reference does not show or suggest a structure where a mounting flange is attached to the housing and a charge pump is mounted on the external surface of the housing on the side opposite to the input shaft.

Finally, in response to the §112 rejections, claim 23 has been cancelled and the dependency of claims 24 and 25 has been amended to provide proper antecedent basis for each of the elements. Therefore, it is believed that claims 24-25 are now allowable.

It is believed that Applicant has addressed all of the outstanding matters and it is requested that this application be granted a Notice of Allowance at the earliest possible date. Please contact the undersigned attorney if there are any questions.

Any fees required by this Response may be charged to our firm's Deposit Account No. 502,261.

Date: June 9, 2005

By: 

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Certificate of Mailing: The undersigned hereby certifies that this document and its enclosures are being faxed to the Commissioner for Patents, 703/872-9306 on June 9, 2005.

By: 

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